REMARKS

Claims 1-26 are pending in this application, with claims 1, 2, 6, 12, 13, 16, 22, and 23 being independent claims. Applicants have amended claims 23, 24, and 26 to correct minor informalities present in those claims. No new matter has been added.

Applicants respectfully note that the final Office Action dated November 6, 2002 still does not acknowledge the claim for foreign priority under 35 U.S.C. §§ 119(a)-(d) and 365(c) and the receipt of a certified copy of Japanese Patent Application No. 11-099353 submitted on April 10, 2001. As previously discussed in the Applicants' response filed on June 26, 2002, Applicants also claim foreign priority under 35 U.S.C. § 119(a)-(d) and 365(c) in the present application. Thus, Applicants respectfully request that the Examiner kindly acknowledge the claim for foreign priority under 35 U.S.C. §§ 119(a)-(d) and 365(c) in the next Office communication.

In the Final Office Action, the Examiner: rejected claim 1 under 35 U.S.C. § 102(b), as being anticipated by Sagusa et al. (Japanese Patent Application Publication No. 09-165681); rejected claims 6, 8, 11, 16, 19, and 25 under 35 U.S.C. § 102(a) as being anticipated by Hirano et al. (U.S. Patent No. 6,120,661); rejected claims 2, 5, 7, 12, 13, and 17 under 35 U.S.C. 103(a) as being unpatentable over Hirano et al. in view of Sagusa et al.; rejected claims 3, 4, 14, 15, 24, and 26 under 35 U.S.C. 103(a) as being unpatentable over Hirano et al. in view of Sagusa et al., as applied to claims 2, 5, 7, 12, 13, and 17 above, and further in view of Wang et al. (U.S. Patent No. 5,755,886); rejected claims 9, 10, 20, and 21 under 35 U.S.C. 103(a) as being unpatentable over Hirano et al.; rejected claim 18 under 35 U.S.C. § 103(a) as being unpatentable over Hirano et al. in view of Fukasawa et al. (U.S. Patent No. 5,310,453); and rejected claims

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22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Watmough (U.S. Patent No. 4,404,262) in view of Sagusa et al.

First, Applicants respectfully submit that Hirano et al. should be excluded from the rejection under 35 U.S.C. § 102(e) in the present application because Applicants have perfected the claim to the foreign priority filing date and antedated Hirano et al. by filing an English language translation of the Japanese priority document, Japanese Patent Application No. 11-099353 filed on April 6, 1999.

Nevertheless, the Examiner appears to believe that Hirano et al. is also available as a prior art under 35 U.S.C. § 102(a). Applicants respectfully submit that Hirano et al. cannot be prior art under 35 U.S.C. § 102(a), since the Japanese Patent Application (Laid-Open) was published on December 24, 1999, which is later than the foreign priority filing date of April 6, 1999 of this application. In addition, a reference's foreign priority date under 35 U.S.C. § 119(a)-(d) and (f) cannot be used as the 35 U.S.C. § 102(e) prior art date. See M.P.E.P. § 2136.03.

Accordingly, the only outstanding rejections in this Office Action should be the rejection of claim 1 under 35 U.S.C. § 102(b), as being anticipated by Sagusa et al., and the rejection of claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Watmough in view of Sagusa et al. The remaining rejections are rendered moot in view of unavailability of Hirano et al. as prior art against the pending claims.

Applicants respectfully traverse the rejection of claim 1 under 35 U.S.C. § 102(b), for the following reasons.

Independent claim 1 recites a combination of structural elements that is patentable over the disclosure of Sagusa et al. In particular, Sagusa et al. does not

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disclose, among other things, "an upper ceramic-metal composite arranged above the heater," "a lower ceramic-metal composite arranged below the heater," and "the heater and the upper and lower ceramic-metal composites [being] cast in a base metal."

Sagusa et al. discloses a heater plate (10) for vacuum deposition and its production. A sheathed heater (11) is embedded in a plate of aluminum ceramic complex (12) covered with an aluminum rolled material (13). In contrast to the Examiner's assertion, a single element of aluminum ceramic complex (12) cannot correspond to both "an upper ceramic-metal composite arranged above the heater" and "a lower ceramic-metal composite arranged below the heater." Furthermore, the aluminum ceramic complex is arranged neither above nor below the heater, but merely embeds a sheathed heater (11).

In addition, the sheathed heater (11) and the aluminum ceramic complex (12) are not cast in a base metal. Rather, only the aluminum ceramic complex (12) is covered with aluminum rolled material (13) by, for example, an isostatic pressing method. See claim 1 and paragraph [0014] of the translation provided by the Examiner.

At least for these reasons, Sagusa et al. fails to anticipate independent claim 1. Thus, reconsideration and withdrawal of this rejection is respectfully requested.

Applicants respectfully traverse the rejection of claims 22 and 23 under 35 U.S.C. §103(a), for the following reason.

While admitting the deficiency of Watmough (i.e., a heater and placing the heater inider the ceramic prior to the composite forming step), the Examiner alleges that "[i]t would have been obvious [...] to cast the apparatus of Sagusa et al. following the method of Watmough to form a ceramic-metal composition [...] to add strength." The

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Examiner relies on Sagusa et al. for an alleged teaching of "to cast the pair of porous ceramics and the heater in the base metal," as recited in claims 22 and 23.

As discussed above, however, Sagusa et al. does not disclose any step of casting the pair of porous ceramics and the heater in a base metal. In fact, Sagusa et al. does not even disclose a pair of porous ceramics.

At least for this reason, Applicants respectfully submit that the cited prior art does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a). Thus, reconsideration and withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully submit that the claimed invention is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, reconsideration of the application, and the timely allowance of all pending claims 1-26.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: May 6 , 2003

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